

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL ACTION NO. 3:12-CV-541-MOC-DCK**

PRODIGY DIABETES CARE, LLC and)	
DIAGNOSTIC DEVICES, INC.,)	
)
Plaintiffs,)	
)
v.)	
)
TZAMAL MEDICARE, LTD.,)	
TZAMAL BIO-PHARMA LTD.,)	
TZAMAL MEDICAL LTD., ET AL.)	
)
Defendants.)	
)

**MEMORANDUM AND
RECOMMENDATION
AND ORDER**

THIS MATTER IS BEFORE THE COURT on Defendant's "Motion To Dismiss Or, In the Alternative, To Stay" (Document No. 2) filed August 27, 2012, and the parties' "Joint Motion To Stay" (Document No. 22) filed October 17, 2012. These motions have been referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b), and immediate review is appropriate. Having carefully considered the motions and the record, the undersigned will grant the "Joint Motion To Stay" and recommend that Defendant's "Motion To Dismiss Or, In the Alternative, To Stay" be granted in part and denied in part.

Plaintiffs filed an "Amended Complaint And Request for Declaratory Judgment" (Document No. 1-2) in the Superior Court of Mecklenburg County, North Carolina on April 5, 2012, which was removed to this Court by Defendants on August 20, 2012. (Document No. 1). Defendants filed a separate related action in this Court on August 17, 2012. (3:12-cv-523-MOC-DCK; Document No. 1).

On August 27, 2012, Defendant's "Motion To Dismiss Or, In the Alternative, To Stay" (Document No. 2) was filed requesting that this matter be either dismissed, or stayed pending the

outcome of the related action filed in this Court, 3:12-cv-523-MOC-DCK. (Document No. 2). Pursuant to the parties' "Joint Motion To Stay" (Document No. 22), as well as the filings in the related action 3:12-cv-523-MOC-DCK, it now appears that the parties stipulate and agree that both actions in this Court should be stayed pending the resolution of the related litigation in the Israeli District Court of the Central Area. (Document No. 22).

IT IS, THEREFORE, RECOMMENDED that Defendant's "Motion To Dismiss Or, In the Alternative, To Stay" (Document No. 2) be **GRANTED** as to the requested *alternative* relief to Stay, and **DENIED WITHOUT PREJUDICE** to the extent it seeks dismissal of this action.

IT IS FURTHER ORDERED that the parties' "Joint Motion To Stay" (Document No. 22) is **GRANTED**, and that this matter is **STAYED** until otherwise ordered.

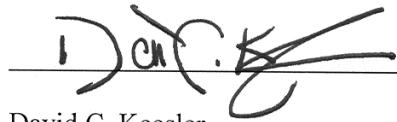
IT IS FURTHER ORDERED that the parties shall file a joint status report on or before **December 21, 2012**, and every ninety (90) days thereafter, unless otherwise ordered by the Court.

TIME FOR OBJECTIONS

The parties are hereby advised that pursuant to 28 U.S.C. § 636(b)(1)(C), and Rule 72 of the Federal Rules of Civil Procedure, written objections to the proposed findings of fact, conclusions of law, and recommendation contained herein may be filed within **fourteen (14) days** of service of same. Responses to objections may be filed within fourteen (14) days after service of the objections. Fed.R.Civ.P. 72(b)(2). Failure to file objections to this Memorandum and Recommendation with the District Court constitutes a waiver of the right to *de novo* review by the District Court. Diamond v. Colonial Life, 416 F.3d 310, 315-16 (4th Cir. 2005). Moreover, failure to file timely objections will preclude the parties from raising such objections on appeal. Diamond, 416 F.3d at 316; Page v. Lee, 337 F.3d 411, 416 n.3 (4th Cir. 2003); Snyder v. Ridenhour, 889 F.2d 1363, 1365 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140, 147-48 (1985), reh'g denied, 474 U.S. 1111 (1986).

SO ORDERED AND RECOMMENDED.

Signed: October 18, 2012



David C. Keesler
United States Magistrate Judge 